

EXHIBIT C

D 0039 247

COMMONWEALTH LAND
TITLE INSURANCE COMPANY
C.733493.mASSIGNMENT AND ASSUMPTION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that WVIII, a Pennsylvania limited partnership ("Assignor") for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, hereby sells, assigns, transfers and sets over unto Pavilion Associates, a Pennsylvania limited partnership and its successors and assigns ("Assignee"), all of Assignor's right, title and interest as tenant, under, in and to that certain lease dated November 28, 1973 between West Village, a Pennsylvania limited partnership, as landlord, and Assignor, as tenant, which lease is for that certain real property known as The Pavilion, located on 3901 Conshohocken Avenue, Philadelphia, Pennsylvania and more specifically described in Exhibit "A" attached hereto and made a part hereof (said lease is hereinafter referred to as the "Lease" and true and correct copies of the Lease are attached hereto as Exhibit "B" and made a part hereof).

Assignee covenants to assume and hereby assumes all of Assignor's interest in, and obligations under, the Lease, from and after the date hereof, and covenants and agrees with Assignor to perform and be bound by all of the terms, covenants and conditions of the Lease.

Assignee hereby agrees to indemnify, defend and hold harmless Assignor from and against any claim, cost, charge or liability (including, without limit, court costs and reasonable attorney's fees), which Assignor may incur or suffer arising under or on account of the Lease, based on claims which arise from and after the date hereof, subject

FEB 24 10 35 AM '84

326

1050 D
50NOTICE OF
ASSIGNMENT
TO THE
COMMONWEALTH
LAND
TITLE INSURANCE
COMPANY
C.733493.m

D 0039 248

however to any limitation or contrary provision set forth
in a certain Purchase Agreement dated October 6, 1983 between
Assignor and Assignee, ^{predecessor in interest, The National Housing} (the "Purchase Agreement"). ^{Partnership}

Assignor hereby agrees to indemnify, defend and
hold harmless Assignee from and against any claim, cost,
charge or liability (including, without limit, court costs
and reasonable attorney's fees), which Assignee may incur or
suffer arising under or on account of the Lease, based on
claims which arose prior to the date hereof, subject however
to any limitation or contrary provision set forth in the
Purchase Agreement.

This Agreement shall be construed and enforced in
accordance with the laws of the Commonwealth of Pennsylvania
and shall be binding upon and inure to the benefit of the
parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Assignor and Assignee have
executed this Agreement this 16th day of February, 1984.

WITNESS:

ASSIGNOR:

WVIII, a Pennsylvania limited
partnership

By: [Signature] (SEAL)
Richard J. Fox,
General Partner

By: THE PROSPECT COMPANY, a
Delaware corporation,
General Partner

By: [Signature]
Second Vice President
R. L. Morgan

Attest: [Signature]
Assistant Secretary
R. L. Buzard
(Corporate Seal)

ASSIGNEE:

PAVILION ASSOCIATES, a Pennsylvania
limited partnership

By: THE NATIONAL HOUSING PARTNERSHIP,
a District of Columbia limited
partnership, General Partner

(Signatures continued on page 3)

D 0039 249

(Signatures continued from page 2)

By: NATIONAL CORPORATION FOR
HOUSING PARTNERSHIPS,
General Partner

By: John S. Wozniak
Vice President
REGIONAL DIRECTOR

Attest: William E. Pagan
Assistant Secretary

(Corporate Seal)

D 0039 250

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF Philadelphia : SS.

On the 16th day of February, 1984, before me, the subscriber, a Notary Public in and for the Commonwealth and County aforesaid, personally appeared Richard J. Fox, who acknowledged himself to be a General Partner of WVIII, a Pennsylvania limited partnership, and that he, as such general partner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by himself as general partner, and desired that the same might be recorded as such.

WITNESS my hand and seal the day and year aforesaid.

William Brown
Notary Public

My Commission Expires WILLIAM BROWN
Notary Public, Phila. Co. Pa.
My Commission expires
January 7, 1987

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF Philadelphia : SS.

On the 16th day of February, 1984, before me, the subscriber, a Notary Public in and for the Commonwealth and County aforesaid, personally appeared John D. Kozala and William E. Brown, who acknowledged themselves to be Vice President and Assistant Secretary, respectively, of The National Corporation for Housing Partnerships, General Partner of the National Housing Partnership, General Partner of Pavilion Associates, a Pennsylvania limited partnership, and that they, as such officers, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation as such officers, and desired that the same might be recorded as such.

WITNESS my hand and seal the day and year aforesaid.

William Brown
Notary Public

My Commission Expires:

WILLIAM BROWN
Notary Public, Phila. Co. Pa.
My Commission expires
January 7, 1987

D 0039 251

STATE OF CONNECTICUT
~~NOTARY PUBLIC~~

: SS. CITY OF HARTFORD
COUNTY OF HARTFORD :

On the 15th day of February, 1984, before me, the subscriber, a Notary Public in and for the Commonwealth and County aforesaid, personally appeared R. L. Morgan and R. L. Buzard, who acknowledged themselves to be Vice President and Assistant Secretary, respectively, of The Prospect Company, General Partner of WVIII, a Pennsylvania limited partnership, and that they, as such officers, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation as such officers, and desired that the same might be recorded as such.

WITNESS my hand and seal the day and year aforesaid.

Patricia H. Caszar
Notary Public

Patricia H. Caszar

My Commission Expires: March 31st, 1984

D 0039 252

ALL THAT CERTAIN lot or piece of ground; SITUATE in the 52nd Ward of the City of Philadelphia described as follows, to wit: BEGINNING at an interior point in the bed of a pond and a right of way for drainage which interior point is measured North 17 degrees, 50 minutes, 59.44 seconds, East the distance of 100.50 feet (U.S.S.) from an angle point which angle point is measured North 17 degrees, 44 minutes, 37 seconds, East the distance of 77.05 feet (U.S.S.) from a point which point is measured North 64 degrees, 52 minutes, 29 seconds, West the distance of 332.01 feet (U.S.S.) from a point on a stone which point is measured North 9 degrees, 53 minutes, 31 seconds, East 287.30 feet (U.S.S.) from a point on the Northwesterly side of Conshohocken Avenue (80 feet wide) which point is measured North 78 degrees, 52 minutes, 12.9 seconds, East along the said Northwesterly side of Conshohocken Avenue the distance of 1095.734 feet (U.S.S.) from a point of tangent which point of tangent is measured Southeastwardly on the arc of a circle curving to the left connecting the said Northwesterly side of Conshohocken Avenue and the Northwesterly side of 40th Street (70 feet wide) having a radius of 50 feet, the arc distance of 81.860 feet (District Standard) from a point of tangent on the said Northwesterly side of 40th Street (70 feet wide) thence extending North 17 degrees, 50 minutes, 59.44 seconds, East passing partly through a right of way for drainage purposes partly crossing a pond and passing partly through a stream and crossing a stream the distance of 523.37 feet (U.S.S.) to a point; thence South 72 degrees, 01 minute, 01 second, East partly crossing said right of way for drainage purposes and crossing a stream 189.99 feet (U.S.S.) to an angle point; thence South 40 degrees, 23 minutes, 45 seconds, East 69.72 feet (U.S.S.) to a point; thence Southwestwardly on the arc of a circle curving to the left having a radius of 300 feet the arc distance of 217.77 feet (U.S.S.) to a point of tangent; thence South 16 degrees, 46 minutes, 10 seconds, West 263.50 feet (U.S.S.) to a point; thence North 76 degrees, 39 minutes, 01 second, West partly recrossing said right of way for drainage and partly recrossing said pond 199.26 feet (U.S.S.) to a point in the bed thereof being the first mentioned point and place of beginning.

EXHIBIT "A"

EXHIBIT B

D 0039 253

LEASE AGREEMENT #11

THIS AGREEMENT, made this 29th day of November, 1973, by and between WEST VILLAGE, a Pennsylvania limited partnership with its principal offices at 100 West Avenue, Jenkintown, Pennsylvania, 19045 (hereinafter called "Landlord") and WV III, a Pennsylvania limited partnership with its principal offices at 100 West Avenue, Jenkintown, Pennsylvania, 19045 (hereinafter called "Tenant").

WITNESSETH:

1. Premises. Subject to the terms and conditions hereinafter set forth, the Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for improvement and use for multi-unit residential purposes and for any other use or uses permitted by the applicable ordinances of the City of Philadelphia, all that certain lot or parcel of ground, with the improvements, if any, thereon erected, in the City and County of Philadelphia, Pennsylvania, all as shown on Exhibit A which is attached hereto and made a part hereof, together with all easements, alleys, rights of ingress and egress now or hereafter belonging to or appertaining to the premises and all other appurtenances of said premises, all of which are hereinafter collectively called the "Premises".

UNDER AND SUBJECT, however, to easements, restrictions or agreements of record relating to or affecting the Premises as set forth in Exhibit B attached hereto and made a part hereof, none of which shall prohibit the use of the Premises for the purposes above stated.

Landlord hereby covenants that the presently existing rights of ingress, egress and regress for pedestrian and vehicular traffic and the rights of access for various utilities, all as more fully set forth in a Declaration of Easement, dated November 21, 1973

D 0039 254

and recorded in the Department of Records of Philadelphia on 197 , in Deed Book , page , shall not be interfered with by Landlord or those claiming through Landlord, this covenant to be construed as a covenant running with the land and binding the Landlord and his successors in interest whomsoever.

2. Term. The term of this lease shall commence on the date of execution of the mortgage on the leasehold improvements insured by the Federal Housing Authority as more fully described in paragraph 6 hereof and shall continue for a period of 75 years thereafter.

3. Ground Rent. While this lease continues in full force and effect, Tenant agrees to pay to Landlord, without notice, demand, set-off or deduction, a net minimum annual ground rent of:

a. \$1.00, in advance, commencing at the beginning of the term hereof and until final endorsement by the Federal Housing Administration of the mortgage on the leasehold improvements; and

b. \$18,840.00, commencing immediately following said endorsement and continuing thereafter for the remainder of the term. Such rent shall be paid in equal consecutive monthly installments of \$1,570.00 in advance on the first day of each month to the Landlord at its above address or to such other person and at such other place as the Landlord may designate in writing. The first such installment payment shall be made on the date of such final endorsement and on the first day of each month thereafter.

4. Additional Rent.

(a) Taxes and Other Impositions - As additional rent, Tenant shall pay throughout the term hereof, all real estate taxes, levies, taxes other than real estate, assessments, water and sewer

D 0039 255

rents and charges, liens, charges and imposts and each and every levy or charge of the same nature, general and special, ordinary and extraordinary, foreseen and unforeseen, or any kind and nature whatsoever (all of which are hereinafter referred to as "impositions") which may now or hereafter be created, levied, assessed, adjudged, imposed or charged upon or with respect to the Premises or any improvements made thereto, or on any part of the foregoing, or directly upon this lease or the rents payable hereunder, or against Landlord because of Landlord's estate or interest herein, by any federal, state or municipal government, or any law, ordinance or regulation thereof or of any public authority whatsoever, including, among others, all special tax bills and general, special or other assessments and liens or charges made on local or general improvements or under any governmental or public power or authority whatsoever; provided, however, if any imposition shall be created, levied, assessed, adjudged, imposed, charged or become a lien with respect to a period of time which commences before or ends after the expiration of the term of this lease (other than by reason of breach of the terms hereby by Tenant), then Tenant shall only be required to pay that proportion of such imposition which is equal to the proportion of said period which falls within the term of this lease. It is the intention of the parties that Landlord shall receive all rentals payable hereunder free from all impositions upon or by reason of the Premises and the building and improvements constructed thereon and all expenses and charges required to be paid to maintain, repair, renovate and carry the Premises and such building and improvements; provided, however, that nothing in this lease shall require Tenant to pay the principal of, or interest on, or any other payment under any mortgage of fee title to the Premises, any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord, or any income, excess profits or revenue tax, or any other tax, assessment, charge or levy upon the rent payable by the Tenant under this Lease.

D 0039 256

(b) Receipts Tenant shall pay all impositions before any fine, penalty, interest or cost may be added thereto for the non-payment thereof (or sooner if elsewhere in this lease required), and Tenant shall furnish Landlord, not later than five (5) days before the last day upon which they may be paid without any fine, penalty or interest, receipts or other evidence satisfactory to Landlord of the payment thereof.

(c) Right to Contest Tenant may, without postponement of payment, bring proceedings for contesting the validity or amount of any imposition, or to recover payments therefor, and Tenant agrees to save Landlord harmless from all costs and expenses in connection therewith. Landlord shall cooperate with Tenant with respect to such proceedings to the extent reasonably necessary, but all costs, fees and expenses incurred in connection with such proceedings shall be borne by Tenant.

(d) Payments Resulting from Defaults Tenant agrees to pay as additional rent any and all sums which may become due by reason of the failure of Tenant to comply with all of the covenants of this lease and pay any and all damages, costs and expenses which the Landlord may suffer or incur by reason of any default of the Tenant or failure on its part to comply with the covenants of this lease, and each of them, and also any and all damages to the Premises caused by any act or neglect of Tenant.

5. Net Lease. It is understood and agreed that this is a net lease. It is the intention of the parties that Landlord shall receive all rentals payable hereunder free from all impositions upon or by reason of the Premises and the building and improvements constructed thereon and all expenses and charges required to be paid to maintain, repair, renovate and carry the Premises and such building and improvements; provided, however, that nothing in this lease shall

D 0039 257

require Tenant to pay the principal or, or interest on, or any other payment under any mortgage of fee title to the Premises, any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord, or any income, excess profits or revenue tax, or any other tax, assessment, charge or levy upon the rent payable by the Tenant under this lease.

6. Improvements to the Premises. Tenant hereby covenants and agrees to improve the Premises with a 12-story residential apartment building consisting of 186,670 total gross square feet, more or less, together with improvements accessory to such building and necessary for its use for such purpose (the "Project"). Landlord hereby authorizes Tenant to obtain a loan in such amount as is necessary to construct said Project, the repayment of which is to be insured by the Federal Housing Commissioner and secured by a mortgage on Tenant's leasehold estate. Tenant is further authorized to execute a mortgage on said leasehold estate and otherwise to comply with the requirements of the Federal Housing Commissioner for obtaining such an insured mortgage loan. Tenant hereby covenants and agrees that it shall pay all installments of principal and interest and all settlement and carrying charges on and under the said mortgage during the term of this lease or under terms of any bond, warrant, note or agreement executed and delivered in connection therewith. It is further expressly agreed that Landlord shall not in any event be required to join in the execution and delivery of said mortgage or to in any other manner guarantee performance of the Tenant thereunder or under any said bond, warrant, note or agreement given in connection therewith.

7. Right of Purchase by the Federal Housing Commissioner.

Notwithstanding any other provision of this lease, if and so long as Tenant's leasehold is subject to a mortgage insured,

D 003-8 258

re-insured or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, the Federal Housing Commissioner, or his successor in office, shall have the option, in the event that he or his successor in office, through the operation of his contract of mortgage insurance, shall acquire title to the leasehold interest, to purchase good and marketable fee title to the devised premises, free of all liens and encumbrances except such as may be waived or accepted by him or his successor in office, within twelve (12) months after so acquiring the leasehold interest, for the sum of \$314,000 payable in cash, or by Treasury check, provided that all rents are paid to the date of transfer of title, upon first giving sixty (60) days written notice to the Landlord or other person or corporation who may then be the owner of the fee, and the owner of the fee shall thereupon execute and deliver to the Federal Housing Commissioner, or his successor in office, a deed of conveyance to the said Premises, containing a covenant against the grantor's acts, but excepting therefrom such acts of the Tenant and those claiming by, through or under the Tenant of the leasehold interest. Nothing in this option shall require the Landlord to pay any impositions which were due and payable by the Tenant.

8. Insurance.

(a) Types of Insurance - Tenant, at Tenant's sole cost and expense, shall maintain and keep in effect throughout the term:

(1) Insurance against loss or damage to the Project and all other improvements from time to time upon the Premises by fire and such other casualties, together with extended coverage, in an amount at least equal to the replacement cost thereof (as such replacement cost may be specified from time to time by Landlord or on the basis of a determination of such cost by a reputable appraiser) in such company or companies as shall be approved by Landlord, naming

00039 259

Landlord and Tenant as insureds as their respective interest may appear.

(2) Insurance against loss or liability in connection with bodily injury or death or property damage in or upon the Premises, under policies of general public liability insurance, with such limits as to each as may be reasonably required by the Landlord from time to time but not less than \$300,000 for each person or \$1,000,000 for each occurrence in respect to bodily injury or death and \$1,000,000 for each occurrence in respect to property damage. Such insurance shall be in a company or companies approved by Landlord and shall name Landlord and Tenant as insureds as their interest may appear.

(b) Possession of Policies; Cancellation - All policies shall provide that they shall not be cancellable without at least ten (10) days written notice to Landlord. At least five (5) days prior to the commencement of the term, the originals and a signed duplicate copy of such policies shall be delivered by Tenant to Landlord and at least thirty (30) days before any such policy shall expire, Tenant shall deliver the original and a signed duplicate copy of a replacement policy to the Landlord.

(c) Waiver of Subrogation; Right under Insurance Policies - Each of the parties hereto hereby releases the other, to the extent of each party's insurance coverage, from any and all liability for any loss or damage which may be inflicted upon the property of such party even if such loss or damage shall be brought about by the fault or negligence of the other party, its agents or employees; provided, however, that this release shall be effective only with respect to loss or damage occurring during such time as the appropriate policy of insurance shall contain a clause to the effect that this release shall not affect said policy or the right of the insured to recover thereunder. If any policy does not provide for such a waiver, the

D-0039 280

party insured shall notify the party to benefit from such waiver, and if the party to benefit therefrom requests that such a waiver be obtained, the insured party agrees to obtain an endorsement to its insurance policies permitting such a waiver of subrogation if it is available and if such policies do not provide therefor. If an additional premium is charged for such waiver, the party benefiting therefrom, if it desires to have the waiver, agrees to pay to the other the amount of such additional premium promptly upon being billed therefor.

(d) Rights of the Commissioner. Notwithstanding any other provisions of this lease, if and so long as this leasehold is subject to a mortgage insured, re-insured or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the Premises is acquired and held by the Commissioner pursuant to the right of purchase granted in paragraph 7 hereof, Tenant shall provide and pay for insurance policies in an amount and in such company or companies and in such form, and against such risks and hazards, as shall be approved by such Mortgagee and/or the Federal Housing Commissioner. The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to the Mortgagee. The Landlord may, at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant.

9. Public Utility Charges. Tenant agrees to pay or cause to be paid all charges for gas, electricity, light, heat, steam, power, water and sewerage, telephone or other communication services used, and other services rendered or supplied upon or in connection with the Premises throughout the term of this lease,

D0039 261

and to indemnify Landlord and save Landlord harmless against any liability or damages on such account.

10. Repairs and Maintenance. Tenant covenants throughout the term of this lease, at Tenant's sole cost and expense, to take good care of the Premises, and at the termination of this lease, return the Premises in the same good order as it was at the commencement of the term, reasonable wear and tear alone excepted, and shall further take good care to keep the same in good order and condition and free of rubbish, ice and snow, and promptly at Tenant's own cost and expense to make all necessary structural and non-structural repairs, ordinary and extraordinary, foreseen or unforeseen, interior and exterior with respect to all improvement on the Premises. In the event of the Tenant's failure to make such repairs or to so maintain the Premises, Landlord may enter upon the Premises and do all things necessary to cause such repairs and/or maintenance to be accomplished, all such repairs to be paid for by Tenant within thirty (30) days of invoice as additional rent.

11. Compliance with Rules, Ordinances, etc. Tenant covenants throughout the term of this lease, at Tenant's sole cost and expense, promptly to comply with all laws and ordinances and notices, orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof, and notices, orders, rules and regulations of the National Board of Fire Underwriters, or any other body now or hereafter constituted exercising similar functions, relating to all or any part of the Premises, exterior as well as interior, foreseen or unforeseen, ordinary as well as extraordinary, or to the fixtures and equipment thereof and the sidewalks,

D 0039 262

curbs and ways in or adjoining the Premises or to the use or manner of use of the Premises. Tenant shall likewise observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to the building and other improvements on the Premises and the equipment thereon.

12. Responsibility of Tenant. Tenant will indemnify and save Landlord harmless from any and all loss, cost and expense resulting from claims for bodily injury, wrongful death and property damage arising out of or in any way connected with Tenant's use and occupancy of the Premises or resulting from any act or omission of Tenant with respect to the area used and occupied by Tenant, unless any such injury, death or damage results from the negligence of Landlord or Landlord's agents, employees, servants or contractors.

13. Additions and Alterations. Tenant shall have the right to make additions, alterations and improvements and to install electric and other fixtures and equipment in or about the Premises with the prior written consent of the Landlord, which consent will not be unreasonably withheld if the additions, alterations or improvements proposed by Tenant will not weaken the structure of the building. All signs, fixtures and equipment shall remain the property of Tenant and shall be removed by the Tenant upon or before any termination of this lease and Tenant will repair any damage caused by such removal.

14. Assignment. Tenant shall not have the right to assign this lease or sublet the Premises or any part thereof other than for individual apartment tenant leases without the Landlord's prior written consent, which will not be unreasonably withheld. Notwithstanding any other provisions of this lease, if and so

D 0039 263

lease as this leasehold is subject to a mortgage insured, re-insured or held by the Commissioner or given to the Commissioner in connection with the resale, or the demised premises are acquired and held by him because of a default under said mortgage, the Tenant may assign, transfer or sell his interest in the demised premises if such assignment, transfer or sale is approved by the Federal Housing Commissioner. In the event of any assignment or subletting, Tenant shall remain responsible for the payment of rent, as herein provided, and for the performance of all of Tenant's other obligations hereunder.

15. Damage by Casualty. Damage to or destruction of any of the improvements on the Premises shall not terminate this lease. In the event of loss under any of the foregoing policies, Landlord, Tenant and Tenant's mortgagee, if any, shall cooperate in obtaining the available proceeds of insurance and all such proceeds shall be paid directly to the Landlord and the Tenant jointly for restoration of the destroyed or damaged property, and for the payment of rent and impositions, subject, however, to the provisions of any mortgage encumbering Tenant's leasehold interest in the Premises, provided, however, that in the event any of such proceeds on account of such loss are not in excess of \$10,000.00, then in that event, payment will be made directly to the Tenant, subject to the rights of said mortgagee as aforesaid, for restoration of the damaged Premises. It is acknowledged that the mortgage encumbering the Tenant's leasehold interest in the Premises requires all insurance proceeds to be paid to the mortgagee and that the foregoing provisions of this paragraph deal only with those cases in which the Federal Housing Administration is not involved or in those

D 0039 264

cases involving insurance coverage above and beyond that required by the present leasehold mortgage.

16. Condemnation.

(a) Total Condemnation. If the entire Premises are condemned or taken by any competent authority for a public or quasi-public use, or if a part thereof is taken to an extent which materially impairs or interferes with the Tenant's proper use and enjoyment thereof, the entire award or payment of damages (hereinafter referred to as the "Award"), following deduction for all costs of appeal taken by either Landlord or Tenant with respect to such condemnation Award, shall be paid as follows:

- (1) the first \$ 314,000 of such balance shall be paid to Landlord in full satisfaction of Landlord's interest in the Premises, and
- (2) the remainder of such balance, if any, shall be paid to the Tenant in full satisfaction of the Tenant's interest in the Premises. Upon receipt by the Landlord of the aforesaid portion of the Award to which the Landlord is entitled hereunder plus all other rents and other payments due up to the date of the taking, this lease shall automatically terminate as of the date of taking and the Tenant shall be under no further obligation to the Landlord.

Notwithstanding the foregoing, none of the provisions of this subparagraph (a) shall be applicable or in effect if and so long as this leasehold is subject to a Mortgage insured, reinsured or held

D 0039 265

by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the demised premises are acquired and held by him because of his default under said mortgage.

(b) Partial Condemnation. If only a portion of the Premises is condemned or taken as aforesaid to an extent which does not materially impair or interfere with the Tenant's proper use and enjoyment thereof, this lease shall continue in full force and effect, there shall be an equitable reduction in the annual ground rent specified herein based proportionately upon the reduction of the gross leaseable area of the improvements on the Premises existing at the time of condemnation, and the Tenant shall have the right to convert the remainder of the Premises into an architectural unit suitable for occupancy by the Tenant and its subtenant for the purposes for which it was then being used. In such event, the entire Award shall be paid to the Landlord and the Tenant jointly as their respective interests may appear at the time of the taking. Any portion of the Award not used for restoration of the Premises as aforesaid shall be and remain the property of the Landlord. Notwithstanding the foregoing, none of the provisions of this subparagraph (b) shall be applicable or in effect if and so long as this leasehold is subject to a mortgage insured, reinsured or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the demised premises are acquired and held by him because of the default under said mortgage.

(c) Appeal of Award. Landlord and Tenant each reserve the right to appeal, at its own expense, the determination of the amount of the Award. It is further understood and agreed that the provisions of this paragraph if shall be applicable to, and shall include the negotiated sale of all or a portion of the Premises in lieu of condemnation.

D 2039-266

(d) Provisions with respect to the Federal Housing Authority.

Notwithstanding any other provisions of this lease, if and so long as this leasehold is subject to a mortgage insured, re-insured or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the leased premises are acquired and held by him because of the default under said mortgage, the following provisions with respect to condemnation or a negotiated sale in lieu of condemnation shall be applicable:

- (1) if all or any part of the Premises shall be taken by condemnation, that portion of any Award attributable to the improvements or damage to the improvements shall be paid to the mortgagee or otherwise disposed of as may be provided in the insured mortgage. Any portion of the Award attributable solely to the taking of land shall be paid to the Landlord. After the date of taking the annual ground rent shall be reduced ratably by the proportion which the Award paid to the Landlord bears to the total value of the land as established by the amount the Federal Housing Commissioner would be required to pay upon acquisition of the fee as set forth in paragraph 7 of this Agreement;
- (2) in the event of a negotiated sale of all or a portion of the Premises in lieu of condemnation, the proceeds shall be distributed and ground rents reduced as provided in cases of

D 0039 267

condemnation in Section (1) immediately preceding, but the approval of the Commissioner and the mortgagee shall be required as to the amount and division of the payment to be received.

17. Default. If during the term of this lease there shall occur any of the following events:

(a) if the Tenant shall fail to pay any installment of the annual ground rent for a period of ten (10) days following the due date thereof;

(b) if the Tenant shall fail to pay any Imposition or any other item of additional rent within the time provided by this lease; or

(c) if the Tenant shall fail to perform or observe any other requirements of this lease and any such failure other than as stated in (a) and (b) above shall continue for fifteen (15) days following notice by Landlord to Tenant of such breach and Tenant shall have failed within such period to commence and make diligent efforts to cure same, then, in any of such events, the installments of annual ground rent herein provided shall, at Landlord's option, accelerate and be due and payable at once without further notice, Landlord at its option may terminate this lease, and/or may further at its option proceed to exercise all other available legal remedies.

In the event this lease is terminated prior to the end of the term hereof as a result of Tenant's default as above provided, it shall be lawful for any attorney as attorney for Tenant to file an agreement for entering in any competent court an amicable action and judgment in ejectment against the Tenant and all persons claiming under the Tenant for the recovery by the Landlord of possession of the Premises, for which this lease

D 0039 268

shall be its sufficient warrant, whereupon, if Landlord so desires, a writ of execution or of possession may issue forthwith without any prior writ or proceedings whatsoever, and provided that if for any reason after such action shall have been commenced, the same shall be determined and the possession of the Premises hereby devised remain in or be restored to the Tenant, the Landlord shall have the right upon any subsequent default or defaults, or upon the termination of this lease as above set forth, to bring one or more amicable action or actions as above set forth to recover possession of the said Premises. All of the remedies given to Landlord by this lease and all rights and remedies given to it by law and equity shall be cumulative and concurrent. No termination of this lease or recovery of the Premises shall deprive the Landlord of any of his remedies or action against the Tenant for rent and all other sums due at the time or which, under the terms of this lease, would in the future become due as if there had been no termination, nor shall any action for rent, breach of covenant or resort to any other remedies for recovery of rent be deemed or construed a waiver of the right to obtain possession of the Premises.

18. Permits and Licenses for Improvements. The Landlord agrees, within ten (10) days after receipt of written request from Tenant, it will join in any and all applications for permits, licenses and other authorizations required by any governmental or other body claiming jurisdiction in connection with any work which the Tenant may do hereunder, and will also join in any grants for easements for electric, telephone, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the devised

D 0039 269

premises or of any improvements that may be erected thereon; and if, at the expiration of such ten (10) day period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and, for that purpose, the Landlord hereby irrevocably appoints the Tenant as its attorney in fact to execute such papers on behalf of the Landlord.

19. Notices. All notices, demands and requests which are required to be given by the Landlord, the Tenant, any mortgagee or the Commissioner shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given below unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given. Addresses for such notices are as follows:

To the Landlord: C/O The Fox Companies
Beaver Hill Apartments
100 West Avenue
Jenkintown, Pennsylvania 19046

To the Tenant: C/O The Fox Companies
Beaver Hill Apartments
100 West Avenue
Jenkintown, Pennsylvania 19046

To the Federal Housing Commissioner: *Housing and Urban Development
Insuring, Lending and Reporting Branch, 11th Floor, Building, 1200 Market St.,
Philadelphia, Pa. 19104*

To the Mortgagee of Tenant's leasehold interest: *One Federal Savings and Loan Association of Philadelphia
1100 Market St., Philadelphia, Pa. 19104
Attn: The National Trust*

20. Federal Housing Authority Provisions with respect to Default.

Notwithstanding any other provisions of this lease, if and so long as this leasehold is subject to a mortgage insured, re-insured or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or

D 0039 270

the demised premises is acquired and held by him because of a default under said mortgage:

(a) Upon any default under this lease which authorizes the cancellation thereof by the Landlord, Landlord shall give notice to the mortgagee and the Federal Housing Commissioner, and the mortgagee and the Federal Housing Commissioner, their successors and assigns, shall have the right within any time within six (6) months from the date of such notice to correct the default and reinstate the lease unless Landlord has first terminated the lease as provided below.

(b) At any time after two (2) months from the date a notice of default is given to the mortgagee and the Commissioner, the Landlord may elect to terminate the lease and acquire possession of the demised premises. Upon acquiring possession of the demised premises, Landlord shall notify Commissioner and mortgagee. Mortgagee and Commissioner shall have six (6) months from the date of such notice of acquisition to elect to take a new lease on the demised premises. Such new lease shall have a term equal to the unexpired portion of the term of this lease and shall be on the same terms and conditions as contained in this lease, except that the mortgagee's and Commissioner's liability for ground rent shall not extend beyond their occupancy under such lease. The Landlord shall tender such new lease to the mortgagee or Commissioner within thirty (30) days after a request for such lease and shall deliver possession of the demised premises immediately upon execution of the new lease. Upon executing a new lease, the mortgagee or the Commissioner shall pay to Landlord any unpaid ground rentals due or that would have become due under this lease to the date of the execution of the new lease, including any taxes which were liens on demised premises and which were paid by Landlord, less any net rentals or other income which Landlord

0039 271

may have received on account of this property since the date of default under this lease.

21. Amendments. This lease shall not be modified or amended without the consent of the parties hereto, and for so long as the leasehold is subject to a mortgage insured, re-insured or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the demised premises are acquired and held by him because of a default under said mortgage, this lease shall not be modified without the consent of the Federal Housing Commissioner.

22. Binding Effect. The provisions hereof shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns, provided, however, that no such rights, privileges or powers shall inure to the benefit of any assignee of Tenant, immediate or remote, unless the assignment to such assignee is permitted pursuant to the provisions of this lease.

23. Subordination. Except for such periods that the option in paragraph 7 is in effect, if the Landlord or the holder of a mortgage of the fee title so elect and notifies the Tenant, this lease shall then be subject and subordinate to all the rights of the Landlord and to any and all mortgages and other encumbrances now or hereafter placed upon the premises. Tenant shall execute and deliver to Landlord any instruments or further assurances which Landlord requires in order to effect any subordination. This provision shall be effective only if any such mortgage or other encumbrance provides, or the holder thereof agrees with Tenant, that neither such holder nor its successors or assigns will take any action to interfere with the rights of Tenant so long as Tenant is not in default hereunder.

D 0030 272

Further, this provision shall become operable only upon review and approval of its use by the Federal Housing Commissioner or his agents in each and every situation in which it is proposed by the Lender or Mortgagee of the fee title that it be utilized, in which the interests of the Federal Housing Commissioner may be affected.

In addition, it is specifically agreed between the parties contracting, in consideration of the mutual covenants, promises, and representations contained herein, and with intent to be legally bound, that the Mortgage on the leasehold improvements and structure shall always be superior and any mortgage on the Fee Interest shall be subordinated to the Mortgage on the leasehold improvements and structure for so long as the Mortgage on the leasehold improvements and structure is insured or re-insured, or held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the demise premises are acquired and held by him because of a default under said Mortgage.

24. Non-Merger of Estates with Respect to Federal Housing Administration -

Notwithstanding any other provisions of this Lease, if and so long as this leasehold is subject to a mortgage insured, re-insured or held by the Federal Housing Commissioner, or given to the Commissioner in connection with a resale, or the demise premises are acquired and held by him because of a default under said mortgage and Lessor should act to terminate the Leasehold Agreement under the provisions of Paragraph No. 20 herein, the following Contractual Agreement shall apply:

TO WIT: It is understood and agreed between the Landlord and Tenant, in consideration of the mutual covenants, promises, and representations contained herein, and with intent to be legally bound, that Title to the leasehold improvements and structure shall in no case merge with the Fee Interest in the land upon

00039 273

the Termination of the Leasehold Agreement pursuant to Paragraph No. 20, but shall remain separate and subject to the encumbrances of the FNA Mortgage, and such remedies as may be pursued by the Mortgagee of the Leasehold Improvements and structure or the Federal Housing Commissioner as their interest may appear.

23. Entire Agreement. It is expressly understood and agreed that this lease and the exhibits attached thereto and forming a part hereof as of the date hereof set forth all of the promises, agreements, conditions and understandings between the Landlord and the Tenant with respect to the Premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them with respect to the Premises as of the date hereof other than as are herein set forth.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

WEST VILLAGE, a Pennsylvania
limited partnership
By its General Partner
Richard J. Fox
Richard J. Fox

The Prospect Company, a corporation
By: *John J. Montgomery*
(J. Thomas Montgomery) Vice President

Attest: *R. L. Bussard*
(R. L. Bussard) Assistant Secretary

D 0038 274

EXHIBIT "A"

ALL THAT CERTAIN lot or piece of ground:

Situate in the 3rd Ward of the City of Philadelphia described as follows, to wit: Beginning at an interior point in the bed of a pond and a right of way for drainage which interior point is measured North 17 degrees, 50 minutes, 59.44 seconds, East the distance of 100.50 feet (U.S.S.) from an angle point which angle point is measured North 17 degrees, 44 minutes, 37 seconds, East the distance of 77.05 feet (U.S.S.) from a point which point is measured North 64 degrees, 52 minutes, 29 seconds, West the distance of 332.01 feet (U.S.S.) from a point on a stone which point is measured North 9 degrees, 53 minutes, 31 seconds, East 297.30 feet (U.S.S.) from a point on the Northeastern side of Conschocken Avenue (40 feet wide) which point is measured North 79 degrees, 52 minutes, 12.9 seconds, East along the said Northeastern side of Conschocken Avenue the distance of 1095.734 feet (U.S.S.) from a point of tangent which point of tangent is measured Southeastwardly on the arc of a circle curving to the left connecting the said Northeastern side of Conschocken Avenue and the Northeastern side of 40th Street (70 feet wide) having a radius of 50 feet, the arc distance of 81.850 feet (District Standard) from a point of tangent on the said Northeastern side of 40th Street (70 feet wide) thence extending North 17 degrees, 50 minutes, 59.44 seconds, East passing partly through a right of way for drainage purposes partly crossing a pond and passing partly through a stream and crossing a stream the distance of 523.37 feet (U.S.S.) to a point; thence South 72 degrees, 01 minute, 01 second, East 188.99 feet (U.S.S.) to an angle point; thence South 40 degrees, 23 minutes, 45 seconds, East 69.72 feet (U.S.S.) to a point; thence Southwestwardly on the arc of a circle curving to the left having a radius of 300 feet the arc distance of 217.77 feet (U.S.S.) to a point of tangent; thence South 16 degrees, 46 minutes, 10 seconds, West 263.50 feet (U.S.S.) to a point; thence North 76 degrees, 39 minutes, 01 second, West partly recrossing said right of way for drainage and partly recrossing said pond 199.26 feet (U.S.S.) to a point in the bed thereof being the first mentioned point and place of beginning.

0-0039-275

WV III, a Pennsylvania limited
partnership By its General Partners

Richard J. Fox
Richard J. Fox

The Prospect Company, a corporation

By: J. Thomas Montgomery
(J. Thomas Montgomery) Vice President

Attest: R. L. Buzard
(R. L. Buzard) Assistant Secretary

STATE OF Penn.

: ss:

COUNTY OF Phil.

On this, the 23rd day of November, 1973, before me
John P. Steiner the undersigned officer, personally
appeared Richard J. Fox, who acknowledged himself to
be a General Partner of WV III, a Pennsylvania limited partnership,
and that he as such General Partner, being authorized to do so,
executed the foregoing instrument for the purposes therein contained
by signing the name of the Partnership by himself as General Partner.

In Witness Whereof, I hereunto set my hand and official seal.

John P. Steiner
NOTARY PUBLIC
Notary Public, Philadelphia, Pennsylvania Co.
My Commission Expires December 31, 1975